



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0170-22</b>
<b>2. Advertiser :</b>	<b>Burger Shurger</b>
<b>3. Product :</b>	<b>Food/Bev Venue</b>
<b>4. Type of Advertisement/Media :</b>	<b>Promotional Material</b>
<b>5. Date of Determination</b>	<b>10-Aug-2022</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification

### DESCRIPTION OF ADVERTISEMENT

This in-store wall mural features characterisations of Hindu gods behind a table, posed like Da Vinci's Last Supper. On the table in front of them are burgers and cans of drink.

### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*Showing Hindu gods drinking alcohol & eating beef burgers is against my religious sentiments. In fact using Hindu god for advertising in such insulting manner is very insensitive.*

### THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*The mural is part of the interior decor of our restaurant, does not contain the logo of our company and is not a part of our advertising, marketing or communication material. We are in the restaurant business and only consumable products are advertised and available for sale.*



*Given that the mural does not meet your definitions of advertising and is not a part of our advertising, marketing or communication material - could you please advise why you feel the mural constitutes advertising as we are not intending to sell art nor to charge customers to view the mural? Mural is just like the furniture in our restaurant, it is non sellable as it is painted on the wall and we do not charge customers to view the mural. I also read that your client has claimed that the mural shows that the gods are eating beef and alcohol, however I'd like to clarify that there is no factual reference to burgers being beef or alcohol in the mural. Is there any reason you believe that mural shows beef and not a vegetarian burger?*

## **THE DETERMINATION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement is insensitive in its use of Hindu gods.

The Panel viewed the advertisement and noted the advertiser's response.

### **Does the material constitute an 'advertising'?**

The Panel first considered whether the mural was advertising.

The Panel noted the definition of advertising in the Code. Advertising means: "any advertising, marketing communication or material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer,

- over which the advertiser or marketer has a reasonable degree of control, and
- that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct".

The Panel noted that there is no call to action in the advertisement to purchase a particular product or to engage with the brand. The Panel considered that you already need to be in the store to see the mural, and therefore its purpose was not to attract people to enter the venue and purchase products. The Panel considered that the advertisement did not draw the attention of the public in a manner calculated to promote any products or the brand generally, and did not meet the definition of advertising.

## **Conclusion**

Finding that the material did not meet the definition of advertising under the Code the Panel dismissed the complaint.